

EXHIBIT 2



**From:** Michael Garrity [wildrockies@gmail.com](mailto:wildrockies@gmail.com)  
**Subject:** Fwd: [EXTERNAL] FOIA Request  
**Date:** January 28, 2019 at 3:05 PM  
**To:** Rebecca Smith [publicdefense@gmail.com](mailto:publicdefense@gmail.com)

----- Forwarded message -----

From: **FOIA, FW6** <[fw6\\_foia@fws.gov](mailto:fw6_foia@fws.gov)>  
Date: Mon, Jan 28, 2019 at 2:26 PM  
Subject: Re: [EXTERNAL] FOIA Request  
To: Michael Garrity <[wildrockies@gmail.com](mailto:wildrockies@gmail.com)>  
Cc: FOIA, FWHQ <[whq\\_foia@fws.gov](mailto:whq_foia@fws.gov)>, Jodi Bush <[jodi\\_bush@fws.gov](mailto:jodi_bush@fws.gov)>

Hello, Mr. Garrity-

The tracking number for your FOIA request is FWS-2019-00323. A more formal acknowledgment will be forthcoming.

Thank you,  
Stacey Cummins  
FOIA Coordinator

United States Fish and Wildlife Service  
Region 6 Freedom of Information Act Office  
134 Union Blvd.  
Lakewood, CO 80228

On Thu, Jan 24, 2019 at 6:41 PM Michael Garrity <[wildrockies@gmail.com](mailto:wildrockies@gmail.com)> wrote:  
January 24, 2019

Stacey Cummins  
FOIA Coordinator  
U.S. Fish and Wildlife Service  
P.O. Box 25486  
Denver, CO 80225  
Phone: 303-236-4473 / Fax: 303-236-7980  
Email: [fw6\\_foia@fws.gov](mailto:fw6_foia@fws.gov)

Carrie Hyde-Michaels  
FWS FOIA Officer  
U.S. Fish and Wildlife Service  
5275 Leesburg Pike MS:IRTM  
Falls Church, VA 22041  
Phone: 703-358-2291/Fax: 703-358-2251  
Email address: [whq\\_foia@fws.gov](mailto:whq_foia@fws.gov)

Jodi Bush  
Montana Field Supervisor  
U.S. Fish & Wildlife Service  
Ecological Services  
Montana Field Office  
585 Shepard Way, Suite 1  
Helena, MT 59601  
(406) 449-5225  
[jodi\\_bush@fws.gov](mailto:jodi_bush@fws.gov)

Dear Ms. Cummins, Ms. Hyde-Michaels, and Ms. Bush;

Pursuant to the federal Freedom of Information Act (5 U.S.C. 552 et. seq.), the Alliance the Wild Rockies, Inc. is filing this request for information. The Alliance for the Wild Rockies is a 501(c) (3) non-profit, public interest, public education organization.

I would like an electronic copy of the following:

1. Litchford and Hawkes Ditch Bill Easement Project Biological Opinion & Incidental Take Statement;
2. All biological assessments, biological evaluations, monitoring, reports, and correspondence regarding (1) above;
3. Big Flat and Frenchtown Irrigation Diversions Biological Opinion & Incidental Take Statement;
4. All biological assessments, biological evaluations, monitoring, reports, and correspondence regarding (3) above;

5. Saint Mary Diversion Biological Opinion & Incidental Take Statement;
6. All biological assessments, biological evaluations, monitoring, reports, and correspondence regarding (5) above;
7. Daly Ditch Irrigation Districts Hedge Diversion Replacement Project Biological Opinion & Incidental Take Statement;
8. All biological assessments, biological evaluations, monitoring, reports, and correspondence regarding (7) above;
9. Flint Creek Water Project East Fork of Rock Creek Biological Opinion & Incidental Take Statement;
10. All biological assessments, biological evaluations, monitoring, reports, and correspondence regarding (9) above.

To my knowledge, this information is not available from any other federal, state, or public agency required to provide it. In addition, the release of this information will not result in financial benefit to the Alliance for the Wild Rockies or any individuals, groups or organizations.

As you know, the Freedom of Information Act (FOIA) provides that if portions of a document are exempt from release, the remainder must be segregated and disclosed. We expect to receive all non-exempt portions of the documents that we have requested, and ask that you justify any deletions by reference to specific exemptions allowed under the FOI Act. The Alliance for the Wild Rockies reserves the right to appeal a decision to withhold any materials.

I hereby request a fee waiver for all search and duplication fees under the FOIA regulations [5 U.S.C. Sec. 552 (a) (4) (A) and 36 CFR 2.19(c) (1)]. The information requested will benefit the citizens of the United States and is for the purpose of public education and to encourage public debate on important policy issues. The requested information will be made available to the public through the Alliance for the Wild Rockies' central office. Information available through the Alliances office and social media is used in press conferences and releases, television and radio interviews, and regional and national publications, and reaches a significant number of individuals nationwide.

The language of the FOIA clearly indicates that Congress intended fees not to be a barrier to private individuals or public interest organizations seeking access to government records. In addition, the legislative history of the FOIA fee waiver language indicates that Congress intended a liberal interpretation of the phrase "Primarily benefiting the public." This suggests that all fees are to be waived whenever the release of information contributes to public debate on important policy issues. This has recently been affirmed by the US Court of Appeals for the District of Columbia, in Better Government Association v. Department of State, 780 F. 2d 86 (D.C. Cir., 1986). In that case, the Court found that under the FOIA, Congress had explicitly recognized the need for non-profit organizations to have free access to government documents and those government agencies cannot impair this free access by charging duplication or search for FOIA information requests (*Id.* at 89).

I appreciate your help. Thank you for your time.

Sincerely yours,

Mike Garrity  
Executive Director  
Alliance for the Wild Rockies  
P.O. Box 505  
Helena, MT 59624  
406 459-5936

